

AMENDED IN SENATE MAY 30, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 805**

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**Introduced by Assembly Member Jones-Sawyer**

February 21, 2013

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An act to amend Section 1275 of the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

AB 805, as amended, Jones-Sawyer. Bail.

Existing law provides that in setting, reducing, or denying bail, a judge or magistrate is required to consider the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of the case. Existing law also provides that public safety is the primary consideration in setting, reducing, or denying bail. Existing law authorizes a court to employ an investigative staff for the purpose of recommending whether a defendant should be released on his or her own recognizance.

This bill would provide that in setting, reducing, or denying bail, a judge or magistrate may consider the report prepared by that staff.

This bill would also make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1275 of the Penal Code is amended to  
2 read:

1 1275. (a) (1) In setting, reducing, or denying bail, a judge or  
 2 magistrate shall take into consideration the protection of the public,  
 3 the seriousness of the offense charged, the previous criminal record  
 4 of the defendant, and the probability of his or her appearing at trial  
 5 or hearing of the case. The public safety shall be the primary  
 6 consideration. In setting bail, a judge or magistrate may ~~take into~~  
 7 ~~consideration~~ *consider factors such as the* information included  
 8 in a report prepared in accordance with Section 1318.1.

9 ~~In~~  
 10 (2) *In* considering the seriousness of the offense charged, a judge  
 11 or magistrate shall include consideration of the alleged injury to  
 12 the victim, and alleged threats to the victim or a witness to the  
 13 crime charged, the alleged use of a firearm or other deadly weapon  
 14 in the commission of the crime charged, and the alleged use or  
 15 possession of controlled substances by the defendant.

16 (b) In considering offenses wherein a violation of Chapter 6  
 17 (commencing with Section 11350) of Division 10 of the Health  
 18 and Safety Code is alleged, a judge or magistrate shall consider  
 19 the following: (1) the alleged amounts of controlled substances  
 20 involved in the commission of the offense, and (2) whether the  
 21 defendant is currently released on bail for an alleged violation of  
 22 Chapter 6 (commencing with Section 11350) of Division 10 of the  
 23 Health and Safety Code.

24 (c) Before a court reduces bail to below the amount established  
 25 by the bail schedule approved for the county, in accordance with  
 26 subdivisions (b) and (c) of Section 1269b, for a person charged  
 27 with a serious felony, as defined in subdivision (c) of Section  
 28 1192.7, or a violent felony, as defined in subdivision (c) of Section  
 29 667.5, the court shall make a finding of unusual circumstances and  
 30 shall set forth those facts on the record. For purposes of this  
 31 subdivision, “unusual circumstances” does not include the fact  
 32 that the defendant has made all prior court appearances or has not  
 33 committed any new offenses.

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